

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK-----X  
JOHN MOORE,

Plaintiff,

-against-

DIOCESE OF ROCKVILLE CENTRE and ST. JOSEPH'S  
ROMAN CATHOLIC CHURCH,Defendants.  
-----X

Index No.

**VERIFIED  
COMPLAINT****JURY TRIAL  
DEMANDED**

Plaintiff John Moore by his attorneys Hach Rose Schirripa & Cheverie, LLP, complaining of the respective Defendants, respectfully alleges, upon information and belief and states as follows:

1. This is a revival action brought pursuant to C.P.L.R §214-g, the New York Child Victims Act (the "CVA"). The CVA opened a historic one-year one-time window for victims and survivors of childhood sexual abuse in the State of New York to pursue lapsed claims. Prior to the passage of the CVA, each of Plaintiff's claims were time barred the day he turned 22 years old.
2. John Moore attended St. John the Baptist High School from 1968 through 1972, where he was a scholarship holder, in the Honor Society, a Regent Scholarship winner, a National Merit Scholarship finalist and had SAT scores in the top percentile.
3. When he was a minor, Plaintiff was sexually abused by Father Joseph McComiskey. Father McComiskey was a priest within the Diocese of Rockville Centre, posted to St. Joseph's Roman Catholic Church. Father McComiskey committed his heinous acts while in the course of his duties as a priest under the guidance and control of the Diocese of Rockville Centre. Plaintiff's life was forever changed as a result of the negligent conduct described herein.

4. As a result of the passage of the CVA, Plaintiff can now pursue restorative justice.

Plaintiff brings suit to vindicate his rights.

### **PARTIES**

5. John Moore ("Plaintiff") is an individual residing in New York County, New York.

6. Upon information and belief, and at all times relevant, and to the present day, the Diocese of Rockville Centre was and is a not-for-profit religious corporation organized under New York law with its principal office located at 50 N. Park Avenue, Rockville Centre, New York, 11571.

7. Upon information and belief and at all relevant times, the Diocese conducted business as the "Diocese of Rockville Centre" or "Rockville Centre Diocese."

8. Upon information and belief, and at all times relevant, and to the present day, the Diocese employed priests and others who served various Catholic institutions and families, including the Plaintiff, John Moore and his family.

9. All such Diocese-related entities, corporation, or organizations are collectively referred to herein as the "Diocese."

10. Upon information and belief, and at all times relevant, and to the present day, St. Joseph's Roman Catholic Church (the "Church") was and is a not-for-profit religious corporation organized under New York law and was and is wholly owned, operated and controlled by the Diocese.

11. Upon information and belief, and at all times relevant, and to the present day, the Church was and is a not-for-profit religious corporation organized under New York law with its principal office in Babylon, New York.

12. Upon information and belief, at all relevant times, the Church conducted business as “St. Joseph’s Roman Catholic Church,” “St. Joseph’s,” and/or “St. Joseph’s Church.”

13. At times hereinafter, the Diocese and the Church shall collectively be referred to as the Defendants.

14. The Church is a parish with a church and a rectory.

15. Upon information and belief, priests employed by the Diocese and/or employed by the Church had personal rooms within the rectory, which, upon information and belief, were utilized as living-quarters.

16. Upon information and belief, and at all times relevant, Father John McComiskey (“McComiskey”), was a priest employed by the Diocese to serve Catholic families, including plaintiff John Moore and his family. During the time McComiskey was employed by the Diocese, he used his position as a priest to groom and to sexually abuse Plaintiff.

17. McComiskey is not a party to this action. However, McComiskey is the individual who committed the acts described herein which give rise to Plaintiff’s allegations.

18. At all times relevant hereto, McComiskey was an agent of the Defendants.

19. To the extent that the Church was a different entity, corporation, or organization during the period of time during which McComiskey used his position as a priest to sexually abuse Plaintiff, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

20. To the extent that the Church is a successor to a different entity, corporation, or organization which existed during the period of time during which McComiskey used his position as a priest to sexually abuse Plaintiff, such predecessor entity, corporation or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

21. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which McComiskey used his position as a priest to sexually abuse Plaintiff, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

22. To the extent that the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which McComiskey used his position as a priest to sexually abuse Plaintiff, such predecessor entity, corporation or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

### **JURISDICTION AND VENUE**

23. This Court has personal jurisdiction over the claims asserted herein pursuant to C.P.L.R. §§ 301 and 302, in that the one or more Defendants transact business within the State of New York.

24. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

25. Venue for this action is proper in the County of New York pursuant to C.P.L.R. §503 in that Plaintiff resides in the County of New York.

### **FACTS COMMON TO ALL CAUSES OF ACTION**

26. Upon information and belief, and at all times relevant hereto, the Diocese was the owner of the Church and held itself out to the public as the owner of the Church.

27. Upon information and belief, and at all times relevant hereto, the Diocese, its agents, servants and employees managed, maintained, operated and controlled the Church.

28. Upon information and belief, and at all times relevant hereto, the Diocese held out to the public its agents, servants, and employees as those who managed, maintained, operated and controlled the Church.

29. Upon information and belief, and at all times relevant hereto, the Diocese employed priests and others who served Catholic families at the Church including the Plaintiff, John Moore.

30. Upon information and belief, and at all times relevant hereto, the Diocese was responsible for the hiring and staffing and did the hiring and staffing at the Church.

31. Upon information and belief, and at all times relevant hereto, the Diocese materially benefited from the operation of the Church, including the services of McComiskey and the services of those who managed and supervised McComiskey.

32. Upon information and belief, and at all times relevant hereto, the Defendants owned “St. Joseph’s Roman Catholic Church” including the parish and rectory located in Babylon, New York (hereinafter known as the “Premises”).

33. Upon information and belief, and at all times relevant hereto, McComiskey was on the staff of, acted as an agent of, and served as an employee of the Diocese.

34. Upon information and belief, and at all times relevant hereto, McComiskey was acting in the course and scope of his employment with the Diocese.

35. Upon information and belief, and at all times relevant hereto, McComiskey was employed by the Diocese and assigned to the Church.

36. Upon information and belief, and at all times relevant hereto, McComiskey was a priest of the Church.

37. Upon information and belief, and at all times relevant hereto, McComiskey was an agent of the Church.

38. Upon information and belief, and at all times relevant hereto, McComiskey had living-quarters on the Premises, specifically located within the rectory of the Church.

39. At all relevant times, the Diocese and the Church, their agents, servants and employees, held McComiskey out to the public, and to the Plaintiff, as their agent and employee.

40. At all relevant times, the Diocese and the Church, their agents, servants and employees, held McComiskey out to the public, and to the Plaintiff, as having been vetted, screened and approved by those Defendants.

41. At all relevant times, Plaintiff reasonably relied upon the acts and representations of the Diocese and the Church, their agents, servants and employees and reasonably believed that McComiskey was an agent or employee of those Defendants who was vetted, screened and approved by those Defendants.

42. At all relevant times, Plaintiff trusted McComiskey because the Diocese and the Church held him out as someone who was safe and could be trusted with the supervision, care, custody and control of Plaintiff.

43. At all relevant times, Plaintiff believed that the Diocese and the Church would exercise such care as would a parent of ordinary prudence in comparable circumstances when those Defendants assumed supervision, care, custody and control of Plaintiff.

***McComiskey meets Plaintiff and Sexually Abuses Him***

44. When Plaintiff was a minor, he was a member of the Diocese. As a member of the Diocese, Plaintiff attended a parish close to the Church.

45. Plaintiff was a youth leader in Catholic youth groups which regularly worked with local parishes within the Diocese, including the Church.

46. Because Plaintiff was a youth leader in Catholic youth groups, he frequented the Church with other minors regularly for a three year period.

47. During such visits, Plaintiff had seen McComiskey in or around the Church and knew him to be a priest.

48. In or around 1971, Plaintiff met McComiskey on a five-day retreat organized, sponsored and promoted by St. John the Baptist High School. McComiskey was a chaperone on such retreat.

49. At this time, Plaintiff was sixteen (16) years old and in his junior year at St. John the Baptist High School.

50. At this time, Plaintiff still participated in Catholic Youth organizations and would attend events like the retreat or other events on the Premises. Some of these events resulted in Plaintiff staying over-night at the Premises.

51. McComiskey would regularly take the Plaintiff and other minors on excursions, which included going to the movies, to celebrate mass and to gatherings at the Church.

52. McComiskey also brought Plaintiff and other minors to his parents' house in Long Island, New York.

53. If Plaintiff and McComiskey returned home late from their excursions, McComiskey would suggest that Plaintiff spend the night in his room within the rectory on the Premises.

54. When Plaintiff would spend the night in McComiskey's room, McComiskey would sleep in the bed with the Plaintiff.

55. McComiskey would host parties in his room within the rectory on the Premises, which were frequented by minors from the youth groups, including the Plaintiff.

56. The aforementioned minors were encouraged to drink beer and alcohol at McComiskey's gatherings.

57. Upon information and belief, other Church clergy and staff members were aware of McComiskey's parties and that such parties were frequented by minors who engaged in underaged drinking.

58. Upon information and belief, other Church clergy and staff members did nothing to stop this behavior.

59. In or around the spring of 1974, Plaintiff and his friend visited McComiskey in his rectory room seeking advice. Plaintiff was going through a break-up at this time. On this particular visit, McComiskey convinced the Plaintiff to "drown his sorrows" with a bottle of Jack Daniels liquor.

60. Plaintiff became sick from consuming the Jack Daniels liquor and passed-out fully clothed in McComiskey's bathroom on the Premises.

61. When Plaintiff awoke, he was naked and was being straddled by McComiskey. McComiskey had his mouth on Plaintiff's penis and McComiskey's penis was hitting Plaintiff in his face repeatedly.

62. Immediately, after Plaintiff managed to roll-over and get McComiskey off of him, McComiskey proceeded to get dressed to say mass that morning.

63. In or around the same time period, Plaintiff planned a party in his home to which he invited his friends from the Church. Somehow, McComiskey forced his way into the party.

64. Plaintiff, still in shock as a result of McComiskey's sexual assault, noted McComiskey's presence at the party and thus tried to avoid him.

65. That evening, Plaintiff went to sleep believing McComiskey left the party.



66. Unfortunately, Plaintiff woke the next morning to find McComiskey rubbing his penis. Plaintiff resisted McComiskey and insisted that he leave Plaintiff's home. McComiskey pursued Plaintiff and continued trying to grab him, but eventually left.

67. Upon information and belief, McComiskey had sexually abused or assaulted other minor children within and under the Diocese of Rockville Center's purview.

68. Upon information and belief, Defendants were aware of McComiskey's predilection to engage in sexually inappropriate behaviors with children.

69. In or around the spring of 1975, Plaintiff entrusted a friend with the horrific encounters he had with McComiskey. Despite Plaintiff's request that his friend keep such information secret, Plaintiff's friend called her mother and told her about Plaintiff's experiences with McComiskey.

70. Upon information and belief, Plaintiff's friend's mother contacted the Church, spoke with "Fr. Fitz" and detailed Plaintiff's story to him. "Fr. Fitz" arranged for a meeting with the Plaintiff, his friend and their mothers.

71. After listening to Plaintiff's telling of his encounters with McComiskey, "Fr. Fitz" advised Plaintiff that McComiskey would be leaving the Church soon and would be reassigned to a high school. Plaintiff advised against this.

72. Despite Plaintiff's advice to the contrary, McComiskey left the Church was posted to Maria Regina High School.

73. Upon information and belief, McComiskey was reassigned to three other posts within the Diocese where he had unfettered access to children.

74. Upon information and belief, McComiskey sexually abused other minors who were entrusted to his care during these posts.

75. Upon information and belief, McComiskey behaved in a blatant manner which should have caused other employees, clergy or staff at the Church to question his behavior and motivation toward Plaintiff and other minors those employees had a duty to protect.

76. At no time during the forced sexual activity described herein did Plaintiff provide consent to engage in these acts with McComiskey.

77. At all times, the conducted alleged herein violated New York State's Penal Code.

78. Upon information and belief, in 2002, Fr. Joseph C. McComiskey was forced to retire in the wake of an allegation of sexual abuse.

79. As a direct result of the Defendants' employee McComiskey's conduct described herein, Plaintiff has suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented from obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of sexual abuse, Plaintiff is unable at this time to fully describe all of the details of that abuse and the extent of the harm suffered as a result.

### **CAUSES OF ACTION**

#### **FIRST CAUSE OF ACTION VICARIOUS LIABILITY IN RESPONDEAT SUPERIOR AGAINST ALL DEFENDANTS**

80. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs "1" through "79" as if fully set forth herein.

81. Defendants herein were and are vicariously liable in respondeat superior to Plaintiff for McComiskey's foregoing unlawful conduct in that said acts were reasonably foreseeable by the Defendants and occurred within the general scope of his employment.

82. Defendants herein were and are vicariously liable in *respondeat superior* to Plaintiff for McComiskey's foregoing unlawful conduct for given prior instances of similar conduct of McComiskey and other employees, agents and/or servants, as well as Defendants' failure to respond accordingly, such unlawful conduct was reasonably foreseeable, and occurred within the general scope of the Defendants' business in that due to prior known instances of similar conduct on part of McComiskey, the herein actions of same could have been reasonably foreseen by the Defendants; and therefore, the Defendants assumed a relationship requiring it to be responsible for Plaintiff's safety and protection.

83. As a result of the foregoing, Plaintiff has been caused to suffer and sustain severe and potentially permanent personal injuries, including severe injury and potentially permanent injury to his emotional and psychological well-being.

84. By reason of the foregoing the Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**SECOND CAUSE OF ACTION  
NEGLIGENCE IN HIRING, RETENTION AND SUPERVISION  
AGAINST ALL DEFENDANTS**

85. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs "1" through "79" as if fully set forth herein.

86. Defendants negligently hired and/or retained its employee McComiskey, with knowledge of McComiskey's propensity for the type of behavior which resulted in Plaintiff's injuries in this action.

87. Defendants negligently placed its employee, McComiskey, in a position to cause foreseeable harm, which most probably would not have occurred had the employer taken reasonable care in the hiring of employees.

88. Defendants negligently hired and/or retained its employee, McComiskey, negligently placed its employee, McComiskey, in a position to cause foreseeable harm, which Plaintiff would not have been subjected to, had Defendants taken reasonable care in supervising or retaining the employee, McComiskey.

89. Defendants knew or should have known of its employee McComiskey's propensity for the conduct that caused Plaintiff's injuries.

90. Defendants negligently failed to properly train and/or supervise its employee McComiskey.

91. That as a result of the foregoing Plaintiff was seriously and permanently injured.

92. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of Defendants in the ownership, operation, management, maintenance, control, security and supervision of its employees.

93. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the Defendants and/or their agents, servants, employees, without any negligence on the part of the Plaintiff contributing thereto.

94. By reason of the foregoing, the respective Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**THIRD CAUSE OF ACTION  
INADEQUATE SECURITY  
AGAINST ALL DEFENDANTS**

95. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “79” as if fully set forth herein.

96. That Defendants negligently failed to provide adequate security to Plaintiff while Plaintiff was lawfully within the Premises.

97. That Defendants negligently failed to provide adequate security to Plaintiff while Plaintiff was lawfully within the Premises and while Defendant had knowledge of its employee McComiskey’s propensity for the type of behavior which resulted in Plaintiff’s injuries in this action.

98. That Defendants negligently failed to safeguard Plaintiff John Moore, a minor.

99. That Defendants knew or should have known of its employee McComiskey’s propensity for the conduct that caused Plaintiff’s injuries and negligently failed to take reasonable measures to protect and provide security to the Plaintiff.

100. That as a result of the foregoing Plaintiff was seriously and permanently injured.

101. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of Defendants in the ownership, operation, management, maintenance, control, security and supervision of the Premises and employees within the Premises.

102. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the Defendants without any negligence on the part of the Plaintiff contributing thereto.

103. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**FOURTH CAUSE OF ACTION  
NEGLIGENCE  
AGAINST ALL DEFENDANTS**

104. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “79” as if fully set forth herein.

105. During the time of the sexual abuse alleged herein, Defendants owned, operated, managed, maintained, controlled, secured and supervised the Premises and employees within the Premises.

106. During the time of the sexual abuse alleged herein, Defendants as the owners, operators, supervisors and managers of the Premises and the employees within the Premises had a duty to protect the Plaintiff from injury while the Plaintiff was lawfully within the Premises.

107. During the time of the sexual abuse alleged herein, Defendants while lawfully upon the Premises, Plaintiff was caused to be repeatedly injured solely and wholly due to the negligence and carelessness of the Defendants.

108. That solely and wholly by reason of the foregoing, Plaintiff was injured.

109. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of the Defendants in the ownership, operation, management, maintenance, control, security and supervision of the Premises and the employees within the Premises.

110. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the Defendants, without any negligence on the part of the Plaintiff contributing thereto.

111. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory damages and punitive damages, together with interests and costs.

**FIFTH CAUSE OF ACTION  
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS  
AGAINST ALL DEFENDANTS**

112. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “79” as if fully set forth herein.

113. The Defendants herein engaged in reckless, extreme, and outrageous conduct by providing McComiskey with access to children, including Plaintiff, despite knowing that he would likely use his position to groom and sexually abuse them, including Plaintiff.

114. The Defendants’ misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

115. As a result of this reckless, extreme, and outrageous conduct, McComiskey gained access to Plaintiff and sexually assaulted and abused him.

116. Defendants knew that this this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and Plaintiff did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional physical distress.

117. By reason of the foregoing, Defendant is are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**SIXTH CAUSE OF ACTION  
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS  
AGAINST ALL DEFENDANTS**

118. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “79” as if fully set forth herein.

119. Defendants and their agents, servants, and/or employees knew or reasonably should have known that the failure to properly advise, supervise, and hire McComiskey, the agent, servant, and/or employee who sexually abused Plaintiff, would and did proximately result in physical and emotional distress to Plaintiff.

120. Defendants and their agents, servants, and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to Plaintiff.

121. Defendants had the power, ability, authority, and duty to intervene with and/or stop the improper conduct that resulted in Plaintiff being sexually abused by McComiskey.

122. Despite said knowledge, power and duty, Defendants negligently failed to act so as to stop, prevent, and prohibit the improper conducted that resulted in McComiskey sexually abusing Plaintiff.

123. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory damages and punitive damages, together with interests and costs.

**WHEREFORE**, Plaintiff, demands judgment against the respective Defendants on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be provide at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction; extent permitted by law;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding costs and fees of this action, including attorneys' fees to the extent permitted by law;
- D. Awarding prejudgment interest to the extent permitted by law;



E. Awarding such other and further relief as to this Court may seem just and proper.

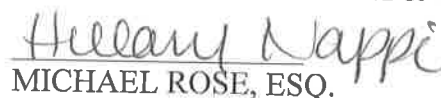
**JURY DEMAND**

Plaintiff demands a trial by jury on all issues so triable.

Dated: New York, New York  
October 1, 2019

Respectfully Submitted,

**HACH ROSE SCHIRIPPA & CHEVERIE, LLP**

  
MICHAEL ROSE, ESQ.

HILLARY M. NAPPI, ESQ.  
112 Madison Avenue, 10<sup>th</sup> Floor  
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*Attorneys for Plaintiff* JOHN MOORE

VERIFICATION

1. I, John Moore, am the Plaintiff named in the instant action.
2. I have authorized the filing of this Verified Complaint (the "Complaint").
3. I have reviewed the allegations made in the Complaint, and to those allegations to which I have personal knowledge, I declare those allegations are true and correct. As to the allegations to which I do not have personal knowledge, I rely on the investigations conducted by my counsel, and for that reason believe those allegations to be true to the best of my knowledge, information, and belief.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: October 1, 2019



John Moore

SAMANTHA CABRAL  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01CA6375994  
Qualified in New York County  
My Commission Expires 06-04-2022

